

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl) No(s).6837/2010

(From the judgement and order dated 19/09/2008 in CRLA No. 337/1988
of The HIGH COURT OF PATNA)

BISHWANATH SINGH Petitioner(s)

VERSUS

STATE OF BIHAR Respondent(s)

(With appln(s) for exemption from filing O.T.,ad-interim ex-parte stay)

Date: 29/11/2010 This Petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE MARKANDEY KATJU
HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Petitioner(s) Mr. P.S. Mishra, Sr. Adv.
Mr. T.H. Vardhan, Adv.
Mr. Upendra Mishra, Adv.
Mr. Manu Shanker Mishra, Adv.
Mr. U. Mishra, Adv.
Mr. Amit Pawan,Adv.

For Respondent(s) Mr. Gopal Singh,Adv.
Ms. Ramita Guha, Adv.

UPON hearing counsel the Court made the following
O R D E R

Leave granted.

Appeal is disposed of in view of the signed order.

(Manmohan Rawat) (Indu Satija)
Sr. P.A. Court Master
(Signed Order is placed on the file.
IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.2254 OF 2010
(ARISING OUT OF SLP (CRL.) NO. 6837 OF 2010)

Bishwanath Singh Petitioner(s)

VERSUS

State of Bihar Respondent(s)

O R D E R

Leave granted.

Heard learned counsel for the parties.

This appeal has been filed against the impugned judgement and order dated 19.9.2008 in Criminal Appeal No. 337/1988 passed by the High Court of Judicature at Patna.

The facts have been stated in the impugned order and hence we are not repeating the same here.

The appellant has been convicted under Section 302 of the Indian Penal Code (IPC) and has been awarded life sentence. We have carefully perused the record. There was a sudden quarrel and exchange of hot words after which the appellant hit the deceased with the blunt weapon on the head which means that the accused was not having any intention to murder the deceased. Hence, we are of the opinion that the accused should have been convicted under section 304 Part-II, IPC instead of Section 302, IPC.

Contd...

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Accordingly, the conviction of the accused is converted into Section 304 Part-II of IPC and he is sentenced to five years' of rigorous imprisonment. The accused is entitled to the benefit of the sentence which he has already served. The impugned order is modified accordingly. Appeal is disposed of.

.....J.
[MARKANDEY KATJU]

NEW DELHI
NOVEMBER 29, 2010

.....J.
[GYAN SUDHA MISRA]